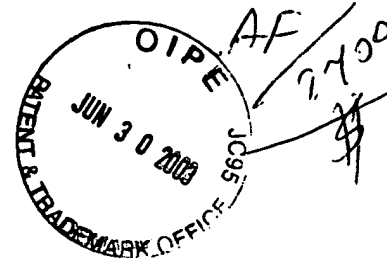


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



Applicant: Kenneth J. Cool

Title: INTEGRATED TELEPHONY AND VIDEO SYSTEM

Docket No.: 450.323US1

Serial No.: 10/042428

Filed: October 24, 2001

Due Date: July 27, 2003

Examiner: Melur Ramakrishnaiah

Group Art Unit: 2643

**MS Appeal Brief**

Commissioner for Patents

P.O.Box 1450

Alexandria, VA 22313-1450

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938, Minneapolis, MN 55402 (612-373-6900)

By:   
Atty: Bradley A. Forrest  
Reg. No. 30,837

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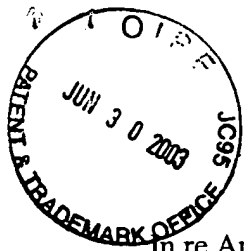
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**Customer Number 32719**

GATEWAY, INC.  
14303 Gateway Place  
Mail Drop SD-21  
Poway, CA 92064

(GENERAL)



PATENT #11

7-21-03  
TCL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kenneth J. Cool

Serial No.: 10/042428

Filed: October 24, 2001

For: INTEGRATED  
TELEPHONY AND  
VIDEO SYSTEM

Examiner: M.Ramakrishnaiah

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APPELLANT'S BRIEF ON APPEAL

Mail Stop Appeal Brief  
Commissioner for Patents  
P.O.Box 1450  
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is presented in support of the Notice of Appeal filed on May 27, 2003, from the final rejection of claims 1-30 of the above-identified application, as set forth in the Final Office Action mailed March 26, 2003.

The Appeal Brief is filed in triplicate. Please charge the requisite fee of \$320.00 set forth in 37 C.F.R. § 1.17(c) to Deposit Account 50-0439. Please charge any required additional fees or credit overpayment to Deposit Account 50-0439.

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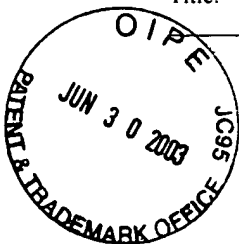
APPELLANT'S BRIEF ON APPEAL

Serial No. 10/042,428

Filed: October 24, 2001

Title: INTEGRATED TELEPHONY AND VIDEO SYSTEM

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APPELLANT'S BRIEF ON APPEAL

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### **1. REAL PARTY IN INTEREST**

The real party in interest, in addition to the above-named Applicant, is Gateway, Inc., by virtue of an Assignment to Gateway, Inc., recorded on April 12, 2002, at Reel 012490, Frames 0724. Gateway, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, and having an office and place of business at 610 Gateway Drive, P.O. Box 2000, North Sioux City, SD 57049-2000.

### **2. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in the present appeal.

### **3. STATUS OF THE CLAIMS**

Claims 1-30 are pending in the application and have all been finally rejected. The rejected claims 1-4, 6-14, 16-23 and 25-30 are the subject of the present appeal.

### **4. STATUS OF AMENDMENTS**

No amendments have been made subsequent to the Final Office Action mailed to the Appellants on January 22, 2003. However, the Board is asked to consider the following amendment which provides clarity and consistency to claim 22:

22. (Twice Amended) An apparatus, comprising:  
means for displaying a video input signal;  
means for recording the video input signal; ~~and~~  
means for detecting an incoming phone call;  
means for utilizing caller identification data from the incoming phone call to assist ~~the~~ a user in selecting whether to answer the incoming phone call; and  
in the event said detecting means detects an incoming phone call, said recording means being capable of recording the video input signal during the phone call, and said displaying means being capable of displaying the recorded video input signal to ~~a~~ the user upon termination of the phone call.

## **5. SUMMARY OF THE INVENTION**

The invention defined in the claims on appeal is directed to a system for uninterrupted viewing of a real time program when a user receives a telephone call. The system includes a controller 104 that detects incoming calls when a user is viewing a television, computer, or other display device 106 and provides a user with the ability to accept the telephone call or to let the system 104 or a voice mail system handle the call. The system 104 is coupled to a video feed 107, such as cable, satellite, broadcast or other delivery system, and is also coupled to a telephone line 108, such as cordless and cellular telephone calls.

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During operation the system detects a telephone call at step 310 as a user watches television, downloads media from a network such as the Internet, views locally stored video and/or listens to locally stored audio. The call may be in the form of a PSTN phone call or an Internet phone call.

The user may accept the call based on caller ID information displayed by the controller 104. The caller ID information may provided via the display 106, another display which is incorporated into system 104 or separate from system 104, or audibly.

If the user desires not to accept the call, the system 104 handles the call by taking a message or forwarding the call in accordance with a predetermined protocol at step 325. The system then waits for another call at step 310.

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If the user accepts the call at step 320, the call is put through or received at step 330. At approximately the same time that the call is accepted, video comprising the program or movie is stored in buffer 111, at which time the display of the currently received video is discontinued.

Once the call is ended, the buffered video is played back on the display from the point at which it was interrupted. The buffering of the real time video signal continues until the display of buffered video is the same as the real time video signal in step 345. This occurs when the program ends, or if portions of the buffered video were played faster than originally received.

Data from the call, including length of the call and caller ID, is logged by the system at step 350. The system then awaits another call at step 310. If another call is accepted prior to the

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catching up of the buffered video to the real time video, the process repeats at step 310, and the playing of the buffered video is stopped until the call is completed.

Buffering of the video or audio signals being observed may occur when caller ID information is displayed. This allows a user to fully consider the caller ID information and decide whether or not to accept a call without worrying about missing an important sequence in the program. In some forms a predetermined time of the video or audio signals may always be buffered such that replay of the buffered signals following a call occurs from a point several seconds prior to the first indication of the call.

The video signal being buffered may be compressed with the compression ratio selected based on the expected length of the call. If a call is accepted from a caller whose calls usually last longer than other callers as reflected in a maintained call log, the compression ratio is increased to ensure that sufficient video is buffered.

Additional functions provided by the system involve using a list of callers for whom a user desires to be interrupted while watching a television program. The history and/or length of user accepted calls may be used to determine a list of callers. In some forms, a threshold percentage such as 50% of previously accepted calls from a caller results in a person being added to the list.

The integrated system 104 performs several functions that may be implemented in software which comprises computer executable instructions stored on computer media such as disk drives and executed from main memory 116 and cache 114 through connectors 124 or 125.

## **6. ISSUES PRESENTED FOR REVIEW**

- a) Whether claims 1-3, 12, 13, 20, 21, 22, 27-30 are patentable over Lagoni et al. (US 6,141,058) in view of Isaka (US 5,706,388) and Goldwasser et al. (US 5,241,428).
- b) Whether claims 4, 6-9, 14, 16-19 are patentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Natori et al. (JP 0200108645 A).
- c) Whether claim 10 is patentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Tsutsumi (JP 406319173A).
- d) Whether claim 11 is patentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Lund (US 6,342,270 B1).
- e) Whether claims 25-26 are patentable over Lagoni in view of Isaka and Goldwasser as applied to claim 22 above, and further in view of Shimada et al. (JP 403178247A) and Tamura et al. (JP 404112374A).
- f) Whether claim 23 is patentable over Lagoni in view of Isaka and Goldwasser as applied to claim 22 above, and further in view of Schultheiss et al. (WO 99/35831).

## **7. GROUPING OF CLAIMS**

Claims 1-3, 10-13, 20, 21, 22-23, and 25-30 stand and fall together for the purpose of this appeal. None of the cited references teach or suggest utilizing and/or displaying caller identification information upon receipt of a call in combination with a buffer capable of buffering a real-time program from the acceptance of the call and providing the buffered program to a user upon termination of the call until the buffered program coincides with the real-time program.

Claims 4, 6-9, 14, 16-19 stand and fall together for the purpose of this appeal. None of the cited references teach or suggest displaying caller identification information upon receipt of the call and buffering a real-time program from the acceptance of the call in combination with storing data about the length of a call.

## **8. ARGUMENT**

### ***1) The Applicable Law***

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). As part of establishing a *prima facie* case of obviousness, the Examiner must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.*

The court in *Fine* stated that:

Obviousness is tested by "what the combined teaching of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 878 (CCPA 1981)). But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." *ACS Hosp. Sys.*, 732 F.2d at 1577, 221 USPQ at 933. And "teachings of references can be combined *only* if there is some suggestion or incentive to do so."

*Id.* (emphasis in original).

The M.P.E.P. adopts this line of reasoning, stating that

"In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991))". *M.P.E.P.* § 2142

The Federal Circuit, in the recently decided *In re Lee*, 61 USPQ2d 1430 (Fed. Cir. 2002), reiterated the prior cases and specifically required that

"When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching motivation or suggestion to select and combine the references relied on as evidence of obviousness" 61 USPQ2d at 1433.

The Federal Circuit in *In re Lee* also indicated that the "factual question of motivation is material

to patentability, and could not be resolved on subjective belief and unknown authority.” 61 USPQ2d at 1434. The Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *Lee* at 277 F.3d 1338, 61 U.S.P.Q.2d 1430.

The test for obviousness under § 103 must take into consideration the invention as a whole; that is, one must consider the particular problem solved by the combination of elements that define the invention. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985). The Examiner must, as one of the inquiries pertinent to any obviousness inquiry under 35 U.S.C. § 103, recognize and consider not only the similarities but also the critical differences between the claimed invention and the prior art. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990), *reh'g denied*, 1990 U.S. App. LEXIS 19971 (Fed. Cir. 1990). Finally, the Examiner must avoid hindsight. *Id.*

**2) *Discussion of the Rejection of Claims 1-3, 12, 13, 20, 21, 22, 27-30 under 35 USC § 103(a) as being unpatentable over Lagoni et al. in view of Isaka and Goldwasser et al.***

Claims 1-3, 12, 13, 20, 21, 22, 27-30 were rejected under 35 USC § 103(a) as being unpatentable over Lagoni et al. (US 6,141,058) in view of Isaka (US 5,706,388) and Goldwasser et al. (US 5,241,428). A *prima facie* case of obviousness has not been established because there is no suggestion to combine Lagoni AND Isaka AND Goldwasser.

***I. There is no motivation or suggestion to combine Lagoni and Isaka and Goldwasser***

In order to establish a *prima facie* case of obviousness, the references must teach or suggest all the claim elements. See M.P.E.P. § 2142 and *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991). The Examiner acknowledges that Lagoni does not teach or suggest all of the elements in claims 1, 12, 13, 20-22 by stating at page 3 of the Office Action that “Lagoni differs from claims 1, 12, 13, 20-22 in that he does not teach the following: a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the

acceptance of the call and providing buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.”

The Examiner attempts to overcome the deficiencies of Lagoni by combining Lagoni with Isaka and Goldwasser. According to the Final Office Action:

“[i]t would have been obvious to one of ordinary skill in the art at the time invention was made to modify Lagoni’s system to provide for the following: a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program as this arrangement would facilitate the user to accommodate temporary interruptions to the program being watched to take a telephone call and still catch up with the program after the telephone call is finished as taught by Isaka and Goldwasser, thus providing enhancements to the Lagoni’s system.” Page 4, Final Office Action.

The Examiner’s statement regarding a motivation to combine Lagoni with Isaka and Goldwasser is conclusory because the Examiner’s statements are analogous to the conclusory statements made by the Examiner and Board in the recently decided case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002).

“With respect to Lee’s application, neither the examiner nor the Board adequately supported the selection and combination of the Nortrup and Thunderchopper references to render obvious that which Lee described. The examiner’s conclusory statements that ‘the demonstration mode is just a programmable feature which can be used in many different devices for providing automatic introduction by adding the proper programming software’ and that ‘another motivation would be that the automatic demonstration mode is user friendly and it functions as tutorial’ do not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill in the art would have been lead to this combination of references, simply to use ‘[use] that which the inventor taught against its teacher.’ *W.L. Gore V. Garlock, Inc.*, 721 F. 2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983).” *Lee*, at 1343, 1344.

Applicant can not find any teaching or suggestion in Lagoni relating to recording program data. In addition, there is no teaching or suggestion in Isaka

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related to displaying caller data as part of the reproducing/recording system.

The Examiner impermissibly uses the current invention as a roadmap to make the combination of Lagoni with Isaka. The Final Office Action has not provided objective evidence for a suggestion or motivation to combine Lagoni with Isaka.

There is also no teaching or suggestion anywhere in Goldwasser that the disclosed variable-delay video recorder is operationally related to a phone, phone call and/or phone system. The system in Goldwasser is entirely user-operated. Each description in Goldwasser that relates to phones or phone calls is done to provide an example reason as to why a user may activate the variable-delay video recorder. In addition, as discussed above, Applicant can not find any teaching or suggestion in Lagoni relating to recording program data.

The Examiner again impermissibly uses the current invention as a roadmap to make the combination of Lagoni with Goldwasser. None of the Office Actions to date has provided objective evidence for a suggestion or motivation to combine Lagoni with Goldwasser.

As part of the Response to Arguments section of the Final Office Action, the Examiner states:

“In Response to applicant’s argument that the examiner’s conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made, and does not include knowledge gleaned only from applicant’s disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).” *Page 9, Final Office Action.*

The Examiner appears to acknowledge that none of cited references teach or suggest making the cited combination but indicates that such a combination would be apparent to one of ordinary skill in the art even though the Examiner can not cite any art that suggests making the combination of Lagoni with Isaka or Goldwasser. Applicant respectfully submits that the only description relating to such a combination is in Applicant’s disclosure.

Applicant notes that none of the cited references teach or suggest utilizing and/or

displaying caller identification information upon receipt of the call in combination with:

- (i) "a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program" as recited in claim 1;
- (ii) "means for buffering the real-time program from the acceptance of the call and providing the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program" as recited in claim 12;
- (iii) "buffering the real-time program from the acceptance of the call" as recited in claims 13 and 20; and
- (iv) "in the event said detecting means detects an incoming phone call, said recording means being capable of recording the video input signal during the phone call, and said displaying means being capable of displaying the recorded video input signal to a user upon termination of the phone call" as recited in claim 22.

The rejection failed to make a *prima facie* case of obviousness against independent claims 1, 12, 13, 20 and 22 and corresponding dependent claims 2-3, 21 and 27-30.

**3) *Discussion of the Rejection of Claims 4, 6-9, 14, 16-19 under 35 USC § 103(a) as being unpatentable over Lagoni et al. in view of Isaka and Goldwasser et al. and further in view of Natori***

Claims 4, 6-9, 14 and 16-19 were rejected under 35 USC § 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Natori et al. (JP 02001028645A). A *prima facie* case of obviousness has not been established because there is no suggestion to combine Lagoni and Isaka and Goldwasser. In addition, a *prima facie* case of obviousness has not been established because there is no suggestion to combine Natori with Lagoni and Isaka and Goldwasser.

***I. There is no motivation or suggestion to combine Lagoni and Isaka and Goldwasser***

The combination of Lagoni, Isaka, Goldwasser and Natori inherently includes the combination of Lagoni, Isaka and Goldwasser. Applicant refers to the above discussion that the Final Office Action has not provided objective evidence for a suggestion or motivation to combine Lagoni with Isaka or Goldwasser.

***II. There is no motivation or suggestion to combine Natori with Lagoni and Isaka and Goldwasser***

The Examiner makes a statement relating to a motivation to combine Natori with Lagoni and Goldwasser at page 5 of the Final Office Action:

“Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for storing length of call as this arrangement would provide call history for the user for referencing it when required as taught by Natori.”

Applicant respectfully traverses the assertion because as acknowledged by the Examiner at page 5 of the Office Action, there is no teaching or suggestion in Lagoni, Isaka and Goldwasser relating to storing data about the length of a call. In addition, there is no teaching or suggestion in Natori relating to caller identification or buffering programs such that Applicant can not see how one of ordinary skill in the art would look to combine Natori with Lagoni, Isaka and Goldwasser. The Examiner impermissibly uses the current invention as a roadmap to make the combination of Natori with Lagoni, Isaka and Goldwasser.

Furthermore, the Examiner's statement regarding motivation is conclusory because the Examiner's statements are again analogous to those made by the Examiner and Board in the recently decided case *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002). See quote from *Lee*, at page 9 *supra*. None of the Office Actions to date has provided objective evidence for a suggestion or motivation to combine the references.

As part of the Response to Arguments section of the Final Office Action, the Examiner states:

“But it is old and well known to store the length of the call in connection with telephone calls as taught by Natori. One of ordinary skill in the art would be motivated to apply teachings of the Natori in the above combination to provide call history for the user for referencing it when required as taught by Natori.” *Page 14, Final Office Action.*

The above quoted conclusory statements of the Examiner are just the sort of statements that the CAFC in *In re Lee* held not to “adequately address the issue of motivation to combine.” As the Court there stated, “This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority” 61 USPQ 1434. The Examiner appears to relying on a subjective belief that such a combination would be apparent to one of ordinary skill in the art.

Applicant respectfully submits that the only description relating to storing data about call length in combination with (i) utilizing and/or displaying caller identification information; and (ii) buffering the real-time program from the acceptance of the call and providing the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program, is in Applicant’s disclosure.

The rejection failed to make a *prima facie* case of obviousness against claims 4, 6-9, 14, 16-19.

**4) *Discussion of the Rejection of Claim 10 under 35 USC § 103(a) as being unpatentable over Lagoni et al. in view of Isaka and Goldwasser et al. and further in view of Tsutsumi***

Claim 10 was rejected under 35 USC § 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Tsutsumi (JP 406319173A). A *prima facie* case of obviousness has not been established because there is no suggestion to combine Lagoni and Isaka and Goldwasser.

***I. There is no motivation or suggestion to combine Lagoni and Isaka and Goldwasser***

The combination of Lagoni, Isaka, Goldwasser and Tsutsumi inherently includes the combination of Lagoni, Isaka and Goldwasser. Applicant refers to the above discussion that the Final Office Action has not provided objective evidence for a suggestion or motivation to combine Lagoni with Isaka or Goldwasser.

***5) Discussion of the Rejection of Claim 11 under 35 USC § 103(a) as being unpatentable over Lagoni et al. in view of Isaka and Goldwasser et al. and further in view of Lund***

Claim 11 was rejected under 35 USC § 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 1 above, and further in view of Lund. A *prima facie* case of obviousness has not been established because there is no suggestion to combine Lagoni and Isaka and Goldwasser.

***I. There is no motivation or suggestion to combine Lagoni and Isaka and Goldwasser***

The combination of Lagoni, Isaka, Goldwasser and Lund inherently includes the combination of Lagoni, Isaka and Goldwasser. Applicant refers to the above discussion that the Final Office Action has not provided objective evidence for a suggestion or motivation to combine Lagoni with Isaka or Goldwasser.

***6) Discussion of the Rejection of Claim 25-26 under 35 USC § 103(a) as being unpatentable over Lagoni et al. in view of Isaka and Goldwasser et al. and further in view of Shimada et al. and Tamura et al.***

Claims 25-26 were rejected under 35 USC § 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 22 above, and further in view of Shimada et al. (JP 403178247A) and Tamura et al. (JP 404112374A). A *prima facie* case of obviousness has not been established because there is no suggestion to combine Lagoni and Isaka and Goldwasser.

***I. There is no motivation or suggestion to combine Lagoni and Isaka and Goldwasser***

The combination of Lagoni, Isaka, Goldwasser with Shimada et al. and Tamura et al. inherently includes the combination of Lagoni, Isaka and Goldwasser. Applicant refers to the above discussion that the Final Office Action has not provided objective evidence for a suggestion or motivation to combine Lagoni with Isaka or Goldwasser.

***7) Discussion of the Rejection of Claim 23 under 35 USC § 103(a) as being unpatentable over Lagoni et al. in view of Isaka and Goldwasser et al. and further in view of Schultheiss et al.***

Claim 23 was rejected under 35 USC § 103(a) as being unpatentable over Lagoni in view of Isaka and Goldwasser as applied to claim 22 above, and further in view of Schultheiss et al. (WO 99/35831). A *prima facie* case of obviousness has not been established because there is no suggestion to combine Lagoni and Isaka and Goldwasser.

***I. There is no motivation or suggestion to combine Lagoni and Isaka and Goldwasser***

The combination of Lagoni, Isaka, Goldwasser and Schultheiss et al. inherently includes the combination of Lagoni, Isaka and Goldwasser. Applicant refers to the above discussion that the Final Office Action has not provided objective evidence for a suggestion or motivation to combine Lagoni with Isaka or Goldwasser.

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**9. CONCLUSION**

Applicant believes the claims are in condition for allowance and requests withdrawal of the rejections to claims 1-4, 6-14, 16-23 and 25-30. Reversal of the Examiner's rejections of claims 1-4, 6-14, 16-23 and 25-30 in this appeal is respectfully requested.

Respectfully submitted,

KENNETH J. COOL


By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

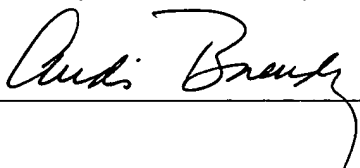
Minneapolis, MN 55402

Date 6/26/2003

By   
Bradley A. Forrest  
Reg. No. 30,837

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Candis B. Buending  
Name

  
Signature

**APPENDIX I**

The Claims on Appeal

1. A system for providing uninterrupted viewing of a real-time program during a telephone call from a caller to a user, the system comprising:
  - a display capable of displaying caller identification information upon receipt of the call;
  - a controller capable of detecting acceptance and termination of the call by the user; and
  - a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.
2. The system of claim 1, wherein the display is coupled to the buffer and is further capable of displaying the buffered program to the user.
3. The system of claim 1, further comprising a video display device coupled to the buffer, wherein the video display device is capable of displaying the buffered program to the user.
4. The system of claim 1, further comprising a memory capable of storing data about the call, the data including at least one of: the caller identification information and length of the call.
5. The system of claim 4, wherein the buffer is further capable of buffering the program in a compressed format, the compressed format being selected based on the stored data about the call.
6. The system of claim 4, wherein the memory is further capable of storing a caller list, the caller list being generated based on the stored data about the call.
7. The system of claim 6, wherein the caller is included in the caller list if the stored data

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Filed: October 24, 2001

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about the call indicates that at least a predetermined percentage of the caller's calls were accepted by the user.

8. The system of claim 6, wherein the caller identification information is displayed only if the caller is included in the caller list.

9. The system of claim 6, wherein the controller is further capable of automatically accepting the call if the caller is included in the caller list.

10. The system of claim 1, further comprising a user input device for controlling viewing of the program and for accepting and terminating the call by the user.

11. The system of claim 1, wherein the controller is further capable of automatically muting audio associated with the program upon the acceptance of the call by the user.

12. A system for providing uninterrupted viewing of a real-time program during a telephone call from a caller to a user, the system comprising:

- means for displaying caller identification information upon receipt of the call;
- means for detecting acceptance and termination of the call by the user; and
- means for buffering the real-time program from the acceptance of the call and providing the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.

13. A method of providing uninterrupted viewing of a real-time program during a telephone call from a caller to a user, the method comprising:

displaying caller identification information upon receipt of the call;

detecting acceptance of the call by the user;

buffering the real-time program from the acceptance of the call; and

displaying the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.

14. The method of claim 13, further comprising storing data about the call, the data including at least one of: the caller identification information and length of the call.

15. The method of claim 14, wherein the program is buffered in a compressed format, the compressed format being selected based on the stored data about the call.

16. The method of claim 14, further comprising generating a caller list based on the stored data about the call.

17. The method of claim 16, wherein the caller is included in the caller list if the stored data about the call indicates that at least a predetermined percentage of the caller's calls were accepted by the user.

18. The method of claim 16, wherein the caller identification information is displayed only if the caller is included in the caller list.

19. The method of claim 16, further comprising automatically accepting the call if the caller is included in the caller list.

20. A computer readable medium having instructions for causing a computer to execute a method of providing uninterrupted viewing of a real-time program during a telephone call from a caller to a user, the method comprising the steps of:

- displaying caller identification information upon receipt of the call;
- detecting acceptance of the call by the user;
- buffering the real-time program from the acceptance of the call; and
- displaying the buffered program to the user upon the termination of the call until the buffered program coincides with the real-time program.

21. An integrated system for providing uninterrupted viewing of a real-time program during a telephone call from a caller to a user, the system comprising:

- a display capable of displaying the program and caller identification information upon receipt of the call;
- a speaker capable of providing audio output for the program and the call;
- a microphone capable of accepting audio input for the call;
- a user input device for controlling viewing of the program and for accepting and terminating the call by the user;
- a controller capable of detecting acceptance and termination of the call by the user; and
- a buffer coupled to the controller, wherein the buffer is capable of buffering the real-time program from the acceptance of the call and providing the buffered program to the display upon the termination of the call until the buffered program coincides with the real-time program.

22. (Previously Amended) An apparatus, comprising:

means for displaying a video input signal;

means for recording the video input signal; and

means for detecting an incoming phone call;

means for utilizing caller identification data from the incoming phone call to assist a user in selecting whether to answer the incoming phone call;

in the event said detecting means detects an incoming phone call, said recording means being capable of recording the video input signal during the phone call, and said displaying means being capable of displaying the recorded video input signal to the user upon termination of the phone call.

23. The apparatus of claim 22, wherein said recording means comprises a structure selected from the group consisting of: a set top box, a computer system, a satellite receiver, a cable receiver, an Internet television box, a network client, and a television.

24. The apparatus of claim 22, wherein said recording means is capable of initiating recording of the video input signal at a time selected from the group consisting of: upon detecting the incoming phone call, upon detecting a ring signal from the incoming phone call, upon detecting caller identification data from the incoming phone call, upon detecting an off-hook signal from the incoming phone call, upon displaying caller identification data from the incoming phone call, upon the user selecting to answer the incoming phone call, and prior to receiving the incoming phone call.

25. The apparatus of claim 22, further comprising means for allowing a voicemail system to handle the incoming phone call in the event the user does not answer the incoming phone call.

26. The apparatus of claim 22, further comprising means for allowing a voicemail system to handle the incoming phone call in the event the user does not answer the incoming phone call, the voicemail system being disposed in a location selected from the group consisting of: integrated within said recording means, and external to said recording means.

27. The apparatus of claim 22, wherein said detecting means further comprises means for displaying caller identification data from the incoming phone call to assist the user in selecting whether to answer the incoming phone call.

28. The apparatus of claim 22, wherein said detecting means further comprises means for displaying caller identification data from the incoming phone call when the caller identification data matches a predetermined list, said caller identification data displaying means otherwise not displaying the caller identification data.

29. The apparatus of claim 22, wherein said displaying means is further capable of displaying caller identification data from the incoming phone call to assist the user in selecting whether to answer the incoming phone call.

30. The apparatus of claim 22, wherein said displaying means is further capable of displaying caller identification data from the incoming phone call when the caller identification data matches a predetermined list, said displaying means otherwise not displaying the caller identification data.